

## **REPORT OF THE COMMITTEE ON LAW ENFORCEMENT & CORRECTIONS**

### **AMENDED**

**July 8, 2004**

The Honorable,  
The Board of Commissioners of Cook County

### **ATTENDANCE**

Present: Chairman Maldonado, Vice Chairman Silvestri, Commissioners Butler, Moreno and Quigley (5)

Absent: Commissioners Gorman and Peraica (2)

Also Present: Commissioners Hansen and Suffredin

Ladies and Gentlemen:

Your Committee on Law Enforcement & Corrections of the Board of Commissioners of Cook County met pursuant to notice on Thursday, July 8, 2004 at the hour of 1:30 PM in the Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois.

Your Committee has considered the following item and upon adoption of this report, the recommendations are as follows:

266177 AMENDING CHAPTER 18 OF THE COOK COUNTY ORDINANCES (PROPOSED ORDINANCE). Submitting a Proposed Ordinance sponsored by Carl R. Hansen, County Commissioner; Co-Sponsored by Joan Patricia Murphy and Larry Suffredin, County Commissioners.

The following is a synopsis of the Proposed Ordinance.

### **PROPOSED ORDINANCE**

#### **AMENDING CHAPTER 18 OF THE COOK COUNTY ORDINANCES**

**WHEREAS**, the County of Cook is a home rule unit of local government pursuant to Article VII, section 6(e) of the 1970 Illinois Constitution, and as such may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the Board of Commissioners has adopted an ordinance entitled The Children's Curfew Ordinance for the protection of minors residing within Cook County and for the overall protection of the public health, safety, comfort and welfare; and

**WHEREAS**, the Board of Commissioners of Cook County desires to amend The Children's Curfew Ordinance by adding provisions which establish certain defenses to prosecution under The Children's Curfew Ordinance that the Board of Commissioners deems necessary and appropriate.

**NOW, THEREFORE, BE IT ORDAINED THAT:**

Section 4, Enforcement of The Children's Curfew Ordinance is hereby deleted in its entirety and replaced with the following:

**CHAPTER 18****CURFEW**

8-1.	Title	18-4. <del>Enforcement</del> <u>Defenses;</u>
<u>Enforcement</u>		
18-2.	Definitions	18-5. Penalties
18-3.	Curfew	

**\*Referred to the Committee on the ~~Department of Corrections Subcommittee~~  
Law Enforcement & Corrections Subcommittee on June 15, 2004.**

Chairman Maldonado asked the Secretary to read the Notice.

**Commissioner Butler moved Communication No. 266177 on the floor for purposes of discussion. Seconded by Commissioner Quigley, the motion carried.**

Chairman Maldonado asked Commissioner Hansen to explain the proposed ordinance.

Commissioner Hansen explained that the purpose of the amendment is to bring the ordinance into conformity with the United States Court of Appeals in *Hodgkins v. Peterson* in Indiana, which sets forth a number of desiderata which must be met in any action to find a violator of the curfew ordinance in such violation. The ordinance removes section 18-4 and substitutes for 18-4 Defenses enforcement and it lists a number of things which constitutes for anyone under 17 legal presence after the curfew hour, which are described in Section 18-3. This came about by the Sheriff and the State's Attorney bringing to the Board's attention the fact that the current ordinance is unenforceable because of the U.S. Court of Appeals' findings. There are two subsequent amendments; one is important because of the fine involved. The City of Chicago has already approved this as a change to their earlier curfew ordinance. The other two amendments are as follows: The penalty section calls for a fine between \$5 and \$100. This language should be amended to "not to exceed \$500." The second amendment takes out a redundancy which was brought to the Board's attention by the State's Attorney.

Commissioner Butler voiced his dismay that the Board is asked to approve an ordinance that the state and city approved instead of all three government agencies meeting to discuss the issue. He finds the ordinance unenforceable as it is written and additionally he stated the amendment is unenforceable.

Commissioner Moreno stated that the amendment and ordinance should be constitutional. He stated that it would be good to have the amendments all on one sheet next to the old text for presentation at the next Board Meeting. He agrees with the amendments, because parents need to be responsible for their children.

Chairman Maldonado stated that the second and third amendments came after the first; that is why they are not all laid out together.

Commissioner Hansen agreed with Commissioner Moreno.

Commissioner Moreno and Silvestri asked to be listed as a co-sponsor.

**Commissioner Butler withdrew the motion to discuss.**

**Commissioner Silvestri, seconded by Commissioner Quigley, moved the approval of Communication No. 266177. The motion carried. Commissioner Butler voted Nay.**

Commissioner Moreno stated that in misdemeanor cases the Cook County State's Attorney's office is used as a clerk to fill out orders assessing fines, fees and costs. This creates a burden on the State's Attorney's Office and the Courts. Also, the fees escalate from several hundred to several thousand. These fees are difficult to collect from an indigent person. He would like to have the State's Attorney's Office, the Public Defender's Office, and the Sheriff's Office appear at the next meeting to examine this, and to discuss where these millions of dollars are going. The inability of the indigent to pay fees will then lead to their driving privileges being re-suspended and to having warrants issued for their arrest for failure to pay.

Chairman Maldonado suggested that Commissioner Moreno write the Chair a letter requesting an informational meeting with the various agencies.

**Commissioner Butler moved to adjourn the meeting, seconded by Vice Chairman Silvestri. The motion carried and the meeting was adjourned.**

Respectfully submitted,  
Committee on Law Enforcement &  
Corrections

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Roberto Maldonado, Chairman

Attest:

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Michelle Harris, Secretary